

# The Non-Aligned Movement and Nuclear Disarmament: Stance and Actions

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## Abstract

The emergence of nuclear weapons as a new actor in international relations has introduced a new area in the international security arena. Since the appearance of these weapons, there have been increasing efforts to limit and destroy them in order to achieve global peace in the framework of disarmament and centered around the Treaty on the Non-Proliferation of Nuclear Weapons. Along with the emergence of the non-proliferation system and the current trend, achieving nuclear disarmament has turned into an international demand, especially for the Non-Aligned Movement member states. The present study seeks to analyze the influence of the Non-Aligned Movement on disarmament in the framework of the mentioned Treaty. To this end, and based on the Neoliberal Institutionalism theory, this article studies the Non-Aligned Movement's stance toward nuclear disarmament in the framework of the Treaty on the Non-Proliferation of Nuclear Weapons and the Review Conferences of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. The study is written according to the descriptive-analytical method. The findings suggest that despite its inefficient influence prior to the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, the Non-Aligned Movement, as a major actor in international peace and security, has gained an influential position in the negotiations about the formation of the trends related to nuclear disarmament in the Treaty on the Non-Proliferation of Nuclear Weapons.

**Keywords:** disarmament, the International Court of Justice (World Court or ICJ), international peace and security, the Non-Aligned Movement, Review Conferences of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT Review Conferences), Treaty on the Non-Proliferation of Nuclear Weapons (the Non-Proliferation Treaty or NPT).

## Introduction

After the dreadful nuclear attacks in August 1945 (Grawin, 2011), a new era began in the history of humankind. The obvious characteristic of this new era was the emergence of a new actor, nuclear weapons, in the international arena. Short after the attacks on Hiroshima and Nagasaki, the fear of a second disaster cast a shadow over humanity and generated a great hatred among the world's public opinion. Public opinion's pressure over the active states in this field to deter and prevent nuclear disasters finally led, in 1968, to an initiative to limit the states which owned the capability to produce, develop, and use nuclear weapons. This pressure to the nuclear weapons-owned countries to disarm, together with establishing the International Atomic Energy Agency (IAEA) in 1957, led to an emergence of a disarmament literature. As a result, since then, global weapon control and disarmament has been considered as one of the most important prerequisites of an international stability (Āqāyi, 2007: 143). Different groups have assumed positions regarding this issue; Non-Aligned Movement is one of the most important ones, whose member states do not own nuclear weapons. This organization has always assumed a fundamental position regarding the issue.

The question, however, is that, what actions has NAM performed in order to achieve nuclear disarmament and how much has it been successful in achieving its objectives? Answering these questions needs an extensive study of the literature produced during the past 42 years, since the emergence of the Treaty. NAM has played a significant role in producing an extensive literature regarding this issue.

The development of nuclear technology has transferred the nature of global security (Discover India, [www.fas.org](http://www.fas.org)). Since then, nuclear weapons have always been one of the most fundamental threats to the international peace and security, to

the extent that the significance of the Treaty on the Non-Proliferation of Nuclear Weapons to the international peace and security has been recognized by all the experts of disarmament. Many believe that the success or failure of NPT depends on its Article VI, which is the central article regarding disarmament. Meanwhile, the importance of NAM, with 118 members, as the largest interstate organization, second to the United Nations, and the ignorance regarding its position toward disarmament among Iranian analysts, prompted us to address this issue in this paper.

NAM was created in 1955, at the Bandung Conference. The organization is the main representative of the Non-Nuclear Weapons States (NNWS) in NPT. NAM considers disarmament as one of its ideals and priorities (for more information, refer to: Kaul, 2006). The collapse of the Soviet Union in 1991 created a historical opportunity for the third-world countries; this stage was the climax of NAM's presence in the international arena as the representative of the Southern or third-world states. The ICJ's Advisory Opinion in favor of NAM's stance also played a significant role in nuclear disarmament (Heffernan, 1998: 140).

After the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, NAM member states made a few new requests. The beginning of the Organization's rapid forward movement could be attributed to the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.<sup>1</sup> NAM, especially during the past few years, had assumed an active diplomacy regarding nuclear issues which signals a more pragmatic activism in international relations. Considering the changes and the evolutions happening in the late 20<sup>th</sup> century and the first decade of the present one, not only has the existential philosophy of the Organization not abolished,

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1. Western bloc, using extensive lobbying and political pressure, persuaded NAM member states to surrender to the West's demand to unlimitedly extend the NPT.

but the international community is eager to receive a new message to create a world free of nuclear weapons.

Since the international evolutions and, especially, the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, NAM turned into a prominent political actor in the framework of the NPT Review Conferences. The Organization seeks, since then, to gradually achieve its main objective and, assuming a more critical role, obtain a pertinent position in the international disarmament equations.

Therefore, the nature of disarmament in Article VI of the NPT, NAM's perspective on disarmament, and the ICJ's Advisory Opinion regarding Article VI constitute the foundations for this paper. Regarding the two main components of the article, NAM and international disarmament, and the mentioned variables, the research method of the paper is descriptive-analytical and the main resources consist of library sources and documents. The position of NAM in promoting the objective of nuclear disarmament in the framework of NPT is the main point discussed in this article.

The authors believe that clarifying NAM's actions regarding nuclear disarmament in the framework of neoliberal institutionalism could provide the readers with a proper understanding of the subject. Neoliberal institutionalism points out the role of the international institutions in degrading conflicts (Williams, 2011: 86). One of the current conflicts is the issue of nuclear disarmament and the role of the states in reducing the tensions regarding this conflict. Institutionalism considers institutions as the organizations, agencies, treaties, and agreements which are formed within the accepted decision-making procedures, rules, norms, and orders ('Abd Allāh Xāni, 2010: 106). The institutions in question for this study are the United Nations, the International Atomic Energy Agency, and the NPT.

We have begun our discussion by studying the concept of disarmament in light of the NPT's Articles. NAM's stance and achievements regarding nuclear disarmament will be presented in the following section followed by NAM's stance toward nuclear disarmament in case of its request for an Advisory Opinion and its member states' actions before and after the ICJ's Advisory Opinion to pursue their objectives. In the end, the solutions to consolidate NAM's stance to achieve disarmament will be analyzed. Despite the critical role and position of NAM in international disarmament, especially nuclear disarmament, the subject case has not received any attention in Iran. The present article is the first research which has addressed this issue.

### **The Concept of Nuclear Disarmament in Light of the NPT**

The idea of nuclear disarmament is undoubtedly rooted in the unpleasant fact that nuclear weapons pose a severe threat for the existence of humanity (Naziri Asl, 1998: 29). Disarmament is born from the indirect, fundamental goal to promote eternal global peace; it is a process which aims to qualitatively and quantitatively prevent the proliferation of a group of weapons (basic objective), and to destroy all the weapon resources (ultimate objective) in order to prevent the break out of a potential conflict using those weapons. Disarmament is the basis of the Universal Declaration of Human Rights (for more information, see Amir Arjmand, 2002). The existence of a processed relationship between the elements and components of different legal and political norms observing the limitation and freedom of the states' actions regarding the production, development, and application of these weapons is clearly understood by studying the disarmament procedure, a procedure which is defined and redefined by numerous states and international organizations. In fact, nuclear disarmament is a maximal approach toward limiting the application of nuclear

weapons and it is the most fundamental step in providing global peace and security.

After the Second World War, the emergence of nuclear weapons in the global stage changed the fate of international and power relations and presented new challenges, as possession of nuclear weapons turned out to be the indicator of the power position in the hierarchy of the international system. Therefore, after World War II, Nuclear Weapons States (NWS) began an effort to form a structure by which they could monopolize the atomic weapon. The NPT is a direct outcome of this effort; as a result, the world's countries were divided into two categories: those who own the nuclear weapons and those who do not (Musaviān, 2007: 12).

The NPT was signed on June 1<sup>st</sup>, 1968, in London, Moscow, and Washington and activated in March 5<sup>th</sup>, 1970 (Dekker, 2001: 57). It is not formed after an ultimate goal—preventing the development of nuclear weapons; rather, it is a tool whose commitments<sup>1</sup> would help achieve ultimate nuclear disarmament (Musaviān, 2007: 191). The NPT was an outcome of intensive negotiations inside and outside of the UN. The Treaty is consisted of three general pillars: nuclear disarmament, non-proliferation, and peaceful use of nuclear technology (Johnson, 2000a: 13).

1. The most important commitments of the states in the NPT are related to disarmament. These commitments are categorized into two groups which are explained in the text of the Treaty and pointed out in the Review Conferences. The first group include pursuing the negotiations in good faith, acting effectively in terms of ending the nuclear arms race, and nuclear disarmament and general and complete disarmament overseen by extensive and effective international supervision. The second group, which were mostly proposed in the 2000 Review Conference, emphasize the negotiations on disarmament in the framework of an agreement capable of verification in an international scale and without discrimination which include prohibiting the production of nuclear fissile materials for nuclear weapons or explosive materials, establishing a proper secondary institution to oversee nuclear disarmament in the Disarmament Conference, the unlimited extension of nuclear disarmament and limiting the related weapons, clear commitment of NWS regarding disarmament, general and complete disarmament, regular reporting regarding Article VI of the Treaty, verification capability which guaranties commitments to nuclear disarmament agreements, and achieving a world free of nuclear weapons.

Disarmament, the ideal objective of the NPT, is mentioned four times in the text (INFCIRC/140) and has been the basis for some of the most challenging discussions in all NPT Review Conferences. The ultimate goal of this Treaty is to achieve nuclear and general, complete disarmament (www.dfa.gov) and it is possible to say that one of the most important reasons preventing a general consensus during three of the eight NPT Review Conferences was the Article VI of the Treaty.<sup>1</sup> In the preamble and Article VI of the NPT, cessation of the nuclear arms race and undertaking proper and effective actions and commitments in support of disarmament are mentioned.

Egypt delivered the first proposal to devise a separate Article in the Treaty focusing mainly on disarmament, but the official proposal to execute Article VI was devised by Mexico. The critical point here is that, contrary to security guaranties which were proposed voluntarily by the Western countries, Article VI was completely devised as a result of the pressure imposed by the NNWS ;the US and Soviet Union finally made amendments to the Article on January 18<sup>th</sup>, 1968, as a result of those pressures and after Mexico's proposal. There are implicit stages provided in the text of Article VI which include: negotiations in good faith<sup>2</sup>, cessation of the nuclear arms race, and nuclear disarmament.

### **NAM's Stance Regarding Nuclear Disarmament**

#### *Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons Before 1995*

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1. According to the NPT (Paragraph 3, Article 8), there must be Review Conferences every 5 years since 1970. In the past 41 years since the NPT became binding, there have been 8 Conferences. Among them, the 1980, 1990, and 2005 Conferences were concluded without a final declaration.

2. Good faith is a moral concept which is gradually institutionalized in the practice of law. In fact, good faith is a symbol of the impact of morality on laws. Good faith is a principle observing the contracts and international laws which are rooted in morality. The legal credibility of this principle is approved by all, but regarding the vagueness of its definition, some jurists believe that good faith does not possess a permanent and independent meaning and it should be evaluated based on the principles and situations regarding each contract, and not merely the conceptual conditions.

Article VI of the NPT is the most important Article discussed by NAM in all the NPT Review Conferences. The three main objectives of Nam are as follows:

1. Providing more global security
2. Political give and take- in the sense that the states with nuclear weapons seek complete disarmament and the other states do not follow their ambitions to achieve nuclear weapons, or, in other words, increasing the pressure on NWS to respect their commitments
3. Increased activism to achieve nuclear disarmament<sup>1</sup>.

It should be noted that NNWS were the ones who originally advocated disarmament. This, especially since the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, has been proposed as a demand by these countries in NPT Review Conferences.

Since the NPT was signed, NAM has called Article VI of the Treaty inconclusive because it does not mention the possibility of an agreement on general and complete disarmament overseen by effective international supervision, the case which ICJ confirmed in its 1996 Advisory Opinion.<sup>2</sup> NAM seeks measures to achieve nuclear disarmament in a specific timeframe and implementing Article VI of the Treaty<sup>3</sup>, believes that actions regarding the NPT must be accompanied by actions regarding cessation of the nuclear arms race and limiting the nuclear arsenal.

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1. NAM opposed the fact that it was not invited to take part in SALT I, II, and New START Treaties and believed the uncooperative behavior of the US and Russia with NAM to be against the spirit of NPT; this demand was expanded before the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

2. India's representative as a prominent member of NAM, while never being a member of the NPT, announced that: the relationship between disarmament and the Treaty must be emphasized in the text. In general, it could be argued that NAM, in 1968, believed that a mere negotiation in good faith is not enough; signing an agreement is necessary.

3. NAM believes Article VI to be a critical and inseparable part of the Treaty which must never be violated by NWS.



In the 1975 NPT Review Conference, NWS provided the SALT I Treaty<sup>1</sup> as the proof of their commitments to Article VI<sup>2</sup>. NAM believed that the NPT, in the few years since its implementation, had only been binding for them, leading to no achievements for the countries that do not possess nuclear weapons. NAM was somehow disappointed by not being included in SALT I and practically considered the US and Soviet Union actions against the NPT<sup>3</sup>. In the text of the final 1975 declaration, taking more serious actions regarding Article VI was emphasized and the US and Soviet Union, facing pressure from NNWS, made a commitment to follow the negotiations in good faith and execute the agreements regarding disarmament (Inventory of International Nonproliferation Organizations and Regimes (2009).

In 1978, the US, the USSR, and Britain provided security guaranties to NNWS; the most important reason for this voluntary action could be the Article VI of the NPT. Security guaranties were provided by NWS in the 1980 Review Conference to indicate, like in the previous conference, a movement in line with Article VI and prevent opposition among NNWS. But, NAM considered the precondition for keeping on with the negotiations to be only moving in line with Article VI and exactly according to the text of the NPT. No significant developments regarding disarmament took place in 1980 (Stoiber, 2003: 1) and these conflicts were one of the most critical reasons leading to a lack of final declaration at the end of the 1980 Review Conference.

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1. This Treaty was signed between the US and USSR in May 1972. It was the first agreement to be signed between the two Cold War superpowers intending to restrain the arms race in strategic (long-range or intercontinental) ballistic missiles armed with nuclear weapons.

2. NWS, to meet NAM's demands regarding disarmament, argued that bilateral negotiations between them to decrease nuclear weapons has begun.

3. NAM announced that the commitment stated in Article VI is firstly a task of NWS and these states are committed to cooperate with NNWS in the disarmament procedures.

In the 1985 Review Conference, like the two previous conferences, Article VI was one of the most challenging issues. Maybe the most critical reason which prevented a general consensus among NAM member states was the Israeli attack on Iraq's nuclear assets in 1981. This was pursued rigorously by Arab states, which constitute an important part of the Movement, followed by the idea of security guaranties. Article VI was finally marginalized in the conference.

In the 1990 Review Conference, NAM announced its discontent regarding the Treaty and pronounced its dissatisfaction with the nuclear powers for not moving in line with their guaranties and implementing discrimination in the course of the Treaty. The discrimination they objected meant that only NNWS, provided that they were a member of the NPT, were subjected to some tasks, while, on the other hand, NWS considered the 1987 Intermediate-Range Nuclear Forces Treaty a fundamental step in executing Article VI. A critical issue which led to the lack of a final declaration in 1990 was Article VI.

*Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons After 1995*

After the Cold War, international efforts to achieve disarmament increased and NAM's proposal after this period clearly manifested the international community's urge to achieve nuclear disarmament.

The 1995 Conference could be regarded as an opportunity for maximal activism by NAM because the Movement began its movement toward becoming one of the two main pillars of the Conference. In 1995, there were severe tensions regarding Article VI, and NAM, pointing out the Western bloc's irresponsible actions regarding the Article VI of the Treaty, declared that these countries had systematically ignored their

commitments to this Article and had violated the Treaty. In this Review Conference, NAM emphasized the need for disarmament and, on the other side, the West considered negotiations about nuclear fissile materials as critically important. These two opposing approaches led to the fact that no serious negotiations took place between 1996 and 1998. Finally, in the final declaration of the 1995 Review Conference (NPT/CONF.1995/32), decreasing nuclear weapons with the objective to destroy them and achieve general and complete disarmament and beginning unceasing multilateral negotiations to prohibit the production of nuclear fissile materials for nuclear weapons or explosive materials were pronounced. NPT member states also agreed upon a practical 3-stage plan to completely and effectively implement and execute Article VI (Rauf, 2000).

In the 2000 Review Conference, thirteen practical steps regarding Article VI of the NPT and considering the pillars and objectives of the Treaty were devised<sup>1</sup> and agreed upon in the final declaration ([www.armscontrol.org/act/2000-06/docjun.asp](http://www.armscontrol.org/act/2000-06/docjun.asp)). For the first time since 1985, NPT member states could achieve a fundamental agreement in their reviews to implement the goal for disarmament ([www.acronym.org.uk/dd/dd46/46npt.htm](http://www.acronym.org.uk/dd/dd46/46npt.htm)), and consider issues such as:

- emphasizing the establishment of a secondary and proper institution tasked with disarmament
- irreversibility of disarmament and weapon control and the related actions
- clear commitment of the nuclear powers<sup>2</sup>, the fact that the ultimate objective of the states is general and complete disarmament overseen by effective international supervision

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1. In 1998, the New Agenda Coalition (NAC), composed of Brazil, Egypt, Ireland, Mexico, New Zealand and South Africa, was formed and had a critical role in devising these thirteen steps.

2. This could be considered as NAM's most important achievement.

- disciplined reporting of the execution of Article VI of NPY (Šaker, 2009: 147-149).

These thirteen steps were accepted by NAM member states.

In the 2000 Review Conference, member states compromised on the clear commitment of NWS in completely acting on their weapons in a responsible manner (Johnson, 2000a: 16) and NAM reminded the Conference of the 1996 ICJ's Advisory Opinion (Rauf, 2000), again criticizing ignorance toward Article VI.<sup>1</sup> The Washington Summit was happening at the same time and, under pressure from NAM, the nuclear powers made strict commitments regarding limiting nuclear weapons.

NAM, in 2000, kept on following the issue of the permanent and effective strategy based on NWS commitments to disarmament (Rauf, 2000) and, in the final declaration, the nuclear powers emphasized their commitments to act in good faith. Additionally, holding nonstop negotiations for disarmament according to the Conference declaration was pronounced and it was announced that the nuclear powers must make diplomatic and increased efforts in order to decrease the nuclear weapons with the ultimate goal of complete disarmament by all the states. These efforts would have ultimately led to a complete and general disarmament overseen by effective and direct international supervision.<sup>2</sup>

The framework of the 2005 Conference characterized the thirteen practical steps of the 2000 Conference. Most of the conflicts between NAM and the West in 2005 were about

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1. In addition to NAM, Kofi Annan, the Secretary-General of the UN at the time, pointed out NWS violation of Article VI and announced that they have to act in accordance with Article VI and destroy 35 thousand nuclear weapons. Germany's representative also mentioned that the nuclear powers should take disarmament negotiations seriously and that disarmament and the NPT are deeply related to each other.

2. It could be said that NNWS greatest achievement in the 2000 Conference was the unequivocal commitment imposed on NWS which required them to disarm without any excuses.

devising a plan regarding Article VI. Nam, in 2005, proposed establishing a secondary pillar, but, because of the severe disagreement between NAM and the West, this did not lead to any conclusions and a final declaration was not issued (Scott, 2010: 5). One other reason for the conflict between NAM and the West in 2005 was the issue of reporting on weapon control: NAM demanded a more clear report in this domain (2005 Review Conference, NPT/Conf.2005/Wp.18).

In the 8<sup>th</sup> review Conference, the devised issues in previous conferences were emphasized. These issues consisted of:

- the execution of the thirteen practical steps developed in 2000,
- NWS commitment to act practically regarding nuclear disarmament (Article VI)
- providing a secondary pillar for nuclear disarmament according to the Article VI
- providing a clear framework for disarmament (Article VI),
- signing an agreement on prohibiting nuclear fissile materials based on the Shannon Mandate.

It was decided, at the end of the conference that NWS report back to the preliminary committee in 2014 regarding Article VI (Rauf, 2000).

In the preliminary summit of NAM in 2010, there was a consensus over the issue that NWS were not committed to their tasks and, in the 2010 Review Conference, all countries were asked to establish a secondary institution regarding nuclear disarmament in a comprehensive and balanced plan.<sup>1</sup> NAM's most important request considering Article VI in this

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1. This idea was suggested by Ban Ki-Moon in 2008 and its European advocates in 201 were Sweden, Belgium, and Netherlands. This suggestion was accepted in the final declaration under Article VI.

Conference was devising a clear timeframe, which, except China, the other four nuclear powers rejected. This severe rejection finally led to the request of not being included in the final declaration (Natalegawa, 2010).<sup>1</sup>

NAM's stance regarding negotiations over prohibiting nuclear fissile materials was emphasizing its execution based on the Shannon Mandate, the 1995 Review Conference, the Additional Conference, and the 5<sup>th</sup> Review Conference. NAM pronounced the clarity and verification principles by NWS in all actions related to disarmament and clearing the security strategies of the nuclear powers from nuclear weapons. The Movement also invited the nuclear states to act according to their commitments to the NPT, including all their agreements in 2000 to completely destroy their nuclear resources (NPT/CONF.2000/18, 2000: 2-6).

In the 2010 Review Conference, NAM asked for speeding up the negotiations in the framework of the NPT, immediately implementing the thirteen executive steps of the 2000 Conference, the NWS commitment to end the production and enhancement of nuclear weapons, establishing a secondary pillar under Article VI, providing a clear timeframe to destroy nuclear weapons, and signing an agreement to prohibit nuclear fissile materials according to the Shannon Mandate. Nam also expressed its concerns regarding the capacity for space arms race and the future of nuclear proliferation (NPT/CONF.2010/WP.46).

NAM's achievements in the 2010 Review Conference are as follows:

- Recognizing the logical and proper request of NNWS

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1. In the past 15 years, this was the first time that a specific timeframe was emphasized. Although it was not included in the final declaration, its achievements for NAM were: 1) the West's retreat of the members' right to exit, 2) the West's retreat of the members' right regarding fuel cycle.

that NWS should stop developing and enhancing their nuclear weapons and end the nuclear weapons proliferation,

- providing a direct reference to a world without nuclear weapons,
- emphasizing “clear commitments” in terms of nuclear disarmament,
- persuading the US and Russia to continue negotiations in line with Article VI,
- ratifying a resolution to immediately establish a secondary institution in Geneva to consider disarmament,
- accepting realistic steps in implementing the 1995 Resolution regarding the Middle East,
- agreeing upon the plan that, in 2014, the P5 states would report to the preliminary committee regarding Article VI and that the next steps toward disarmament would be taken in 2015,
- Emphasizing the need to act quickly in line with disarmament according to the 2000 Conference.

These achievements caused the 2010 Review Conference to be one of the most productive and successful Conferences for NAM member states (Kerr et al., 2010: 6-7).

In 2015 Review conference, Iran on Behalf of the Non Aligned Movement delivered the statement. The main point in this statement was:

- The Nuclear Weapons states have not made progress in eliminating their nuclear weapons;
- Underline the Importance of Universal adherence to the Treaty;
- Each state party has a sovereign right to define its national energy and fuel cycle policies;

- Has not diminished the role of nuclear weapons in security policies of the nuclear weapons states;
- IAEA as the sole competent authority for the verification of the fulfillment of safeguard obligations;
- Emphasis the significance of full, effective and nondiscriminatory implementation of article IV;
- Underlined the right of all states parties to participation in the fullest possible exchange of equipment, material and scientific and technological information for the peaceful uses of nuclear energy (2015 Review Conference, 2015: 9-11).

### **ICJ's Advisory Opinion Regarding Nuclear Disarmament Negotiations and Article VI of the NPT<sup>1</sup>**

In addition to all the efforts made to achieve disarmament, the ICJ's Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons had a great impact on the disarmament procedures. ICJ, recognizing its competence and jurisdiction by the UN General Assembly in 1994 to answer questions, had the opportunity to clarify some points regarding the legal issues of nuclear weapons and analyze the international concerns about legality of the threat and use of nuclear weapons.

Paragraph 105, section 2F of the final conclusion of the 1996 Advisory Opinion is critically important in terms of the legal ideas about controlling the weapons. The nuclear treaties after the NPT have included commitments such as Article VI of the NPT which requires commitments by both sides to follow effective measures to end the nuclear arms race. NAM, referring to Article VI, asked the nuclear powers to immediately keep on the negotiations to end nuclear weapon arms race in good faith.

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1. The ICJ specified in its Advisory Opinion that threatening by nuclear weapons is generally a violation of Paragraph 4, Article 2 of the Universal Declaration and the requirements of Article 51, hence illegal. It also stated that it cannot conclude that threatening by nuclear weapons in special conditions is legal or illegal.



NAM asked for an Advisory Opinion from ICJ to clarify the public opinion and characterize the legal situation of nuclear weapons. The 1996 Resolution of the UN General Assembly which was ratified after this Advisory Opinion supports this idea (UN GA Res.51/450, 1996).

The main achievement of the Advisory Opinion for NNWS was the opinion on Article VI. The opinion demanded the states' commitment to keep on the negotiations in good faith and end the disarmament negotiations with achieving their objectives under effective and extreme international supervision. ICJ, recognizing the importance of Article VI, stated that the NPT is not a mere commitment by the states to disarm themselves; rather, the member states are committed to achieve a clear conclusion regarding disarmament, and this requires a specific action (negotiation) in good faith. NAM had previously insisted on this fact in 1968 and ICJ, hereby, had approved the political and legal justification of the NNWS. According to the Advisory Opinion, NPT member states have two commitments: commitment to keep on the negotiations; and commitment to reach an agreement (Naziri Asl, 1998: 143-144). The commitment to reach an agreement is of great importance for NAM as it forces the NWS to finalize an agreement. This was followed by severe rejection by the West because it would have required them to destroy their nuclear weapons in a clear framework and finalize the negotiations regarding destroying the nuclear weapons. It was, of course, a great achievement for NAM which was trying to make Article VI binding; they had sought this for years.

The ICJ, like the states in assessing the position of nuclear disarmament and its importance for international peace and security (which is the fundamental objective of the UN), announced its interpretation of the negative effects of the existence of these weapons not regarding the international law.

As a result, the Advisory Opinion regarding Article VI sparked too many conflicts<sup>1</sup> and NAM, highlighting this section, emphasized pursuing the negotiations in good faith and recognized negotiations on disarmament as the current priority for the international community.

Negotiations for clear commitments, resulted from the ICJ's Advisory Opinion, were ratified unanimously and legal commitments to disarmament negotiations and, accordingly, emphasizing the precondition of Article VI, pointing out general and complete disarmament, were implemented (Johnson, 2000b: 3). The ICJ's Advisory opinion on disarmament gave hope to NAM member states, as the global importance of this opinion somehow established a new hope among NNWS to pursue their rights more than before. From the ICJ's Advisory Opinion, it can be interpreted that the disarmament approach must move toward international treaties, which itself follows two fundamental principles of the treaties: freedom of will in both sides, and Formalism (Falsafi, 2004: 27). This part of the opinion is highly effective and valuable for NNWS to impose pressure on NWS and ask for principles which, in turn for destroying parts of the nuclear weapons, would take serious steps. This will lead into physically destroying nuclear weapons and to act precisely to devise a legal contract based on the illegality of possession, usage, development, and testing of nuclear weapons (Naziri Asl, 1998: 155).

### **Solutions to Consolidate NAM's Stance Regarding Nuclear Disarmament**

The countries which possess nuclear weapons have devised some variables in their security strategies which are against

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1. Regarding international legal interpretation of this Article, some Western states (using Mc Dougall's school) consider it "according to mere negotiation"; while jurists firmly believe that it means "undertaking an agreement" and it has been devised to guarantee the success of disarmament negotiations.

NAM member states' interests and wellbeing: unilateral security, rights without self-commitment, commitment without rights for NNWS, and NNWS not having the right to participate in disarmament procedures. These components are completely against the established perspectives of the NAM and the NPT.<sup>1</sup> NNWS must provide practical solutions in the framework of the current system and consider the present realities in their solutions since providing impractical and ideal solutions not only does not help with the issue, but adds on the tensions between NWS and NNWS.

### **Moving Toward Disarmament Focused on Global Cooperation in the Process**

NAM member states consider the NPT a discriminative treaty between NWS and NNWS (Statement by Ambassador Augustine P. Mahiga, 2005). This discrimination is especially manifest in the Article VI, which does not bind NWS to disarm themselves. Moving in good faith along the disarmament procedures, while being an ideal way to achieve disarmament, is not enough. NAM, since the beginning, has emphasized the practicality of the Treaty, but having an agreement to take further steps is critical.

NAM member states have unanimously asked that the commitments by NWS for disarmament in a precise timeframe be leveled against NNWS ambitions to achieve nuclear weapons (Dekker, 2001: 68). This request is both legal and a step toward a balance in program of work (in the framework of the Disarmament Conference). Although NAM has been successful in maintaining a fundamental stance regarding disarmament in international summits, this stance should be pursued practically and as a serious demand by NNWS.

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1. It is mentioned in the preamble to the NPT that it must be executed with all states cooperating. It is obvious that not allowing NNWS to cooperate in disarmament procedures and negotiations is not only a clear violation of the Treaty, it also adds to the dysfunctionality of negotiations on disarmament.

NAM member states must remind the NWS of their role as the leaders of the disarmament procedures. They must also inform them that in order to provide a proper condition for disarmament system, free of legal or practical issues, there should be a situation which could lead to a proper solution in the current systematical framework and free of unrealistic approaches. The nuclear powers' advances toward disarmament and achieving a binding agreement will further strengthen the third pillar of the NPT and will pave the way toward disarmament; NAM plays a critical role in this process.

### **Strategic Stability and Resolving Regional and Global Conflicts**

There cannot be a reasonable hope in achieving disarmament until the strategic issues of the regions<sup>1</sup> and the conflicts, especially regional ones, are resolved.

Disarmament is an outcome of the concept of security which is the main actor in international peace and security. Here, disarmament treaties which are of global importance have a more critical impact on resolving global conflicts. For example, in 2000, START and the need to sign START III was realized and agreed upon, which could be considered as the basis for strategic stability at the time. Disarmament seeks not the arrangement, but deterring wars by liberating the world from the tensions and fear of weapons which are the reasons of numerous wars (Rydell, 2009). To this end, "negotiations regarding disarmament would be inconclusive while the unhealthy relations between the states is not improved by a new sense of mutual trust and understanding" (Plano and Olton, 2008: 380). Because of its global range and its critical role in disarmament procedures, NAM, as the representative of half of

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1. The Middle East is of most critical importance in the world because of its specific and exquisite conditions.

the world's countries, is able to be the front-liner in this mutual trust and understanding.

### **Conclusions**

Nuclear proliferation is a threat to the international peace and security (Mustafa, 2010: 1) and the current trends indicate the replacement of "Nuclear Weapons for Peace" theory with disarmament. Disarmament, in general and specifically in the Article VI of the NPT, has always played a significant role in all the negotiations regarding the destruction of all nuclear weapons. It has also been a critical issue in various Review Conferences, sometimes leading to a break among the members (Rauf, 2000).

The authors of this article believe that NAM has sought a balance between all the rights and commitments of the nuclear states and non-nuclear states and has played an active role, especially since the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, in imposing pressure to achieve nuclear disarmament. This is proved through the framework of liberal institutionalism. Using the NPT, NAM governments (as the main actors in their states) have sought absolute benefits in the UN; these benefits that are in line with NAM members' national interests in the international arena, an arena which lacks a paramount central power and rationality guides the states' actions. Of course, the behavior of NAM member states in order to achieve their national interests would lead to an increased international peace and security, amid nuclear disarmament. In institutionalism, international actors, as the tools for promoting global interest to achieve international peace and security, must be the promoters and advocates of institutions. NAM, using the UN and in the framework of the NPT Review Conferences is seeking this objective.

In the text of the NPT's Article VI, loopholes such as lack of a timeframe and specific execution plan cover the binding aspect of the Article, while in the text of the Treaty, ICJ's Advisory Opinion, and the 2000 Review Conference regarding the unequivocal undertaking to achieve nuclear disarmament have confirmed the state of the Article. Most of the problems and conflicts in negotiations regarding the final declaration in previous Conferences have been about Article VI's rules on arms race and disarmament (Stoiber, 2003: 5). Accordingly, imbalance in the commitments and tasks of NPT member states is an objective of NAM which will lead to disarmament.

NAM member states have long been insisting on seeking disarmament in a specific timeframe. The Movement believes that they demand cyclical (periodical) opportunities to force NWS to further extend the NPT in the future, based on the policy of give and take (Ogilvie-White, & Simpson, 2003). But, if the world's countries, especially NNWS seek a desirable result out of extensive and challenging negotiations on disarmament, they should move toward their objective in the framework of the current international realities, especially in light of the Universal Declaration of Human Rights, and using national, regional, and international capacity. Moving toward this objective will require respecting NNWS rights and demands regarding a balance in the NPT's commitments and tasks.

Disarmament and good faith in pursuing the NPT and its objectives is dependent on a commitment to stop producing new nuclear weapons (vertical non-proliferation) and destroying the existing arsenals; this means that NWS, as a sign of good faith which is pronounced in Article VI and ICJ's Advisory Opinion, must at least avoid nuclear weapons proliferation.

In the end, it could be argued that ratifying multiple resolutions in the General Assembly regarding the illegality of using nuclear weapons and the need for nuclear disarmament,

which manifests the hopes and wishes of the international community, tell a lot about the demands by the world to rid itself of these lethal weapons.

## References

- 'Abd Allāh Xāni, 'A. (1389 [2010 A.D]). *Nazarieh hā-ye amniat*. Tehrān: Mu'aseh-ye Farhangi-e Motāle'āt va Tahqiqāt-e Beyn al-melali-e Abrār-e Mo'āser-e Tehrān. [in Persian]
- Āqāyi, D. (1386 [2007 A.D]). *Sāzmān hā-ye beyn al-melali*. (2<sup>nd</sup> ed.). Tehrān: Našr-e Sarā-ye 'Edālat. [in Persian]
- Amir Arjmand, A. (1381 [2002 A.D]). *Barresi-e farāyand-e xal'-e selāh az manzar-e hoquq-e beyn al-melal-e bašardustāneh bā ta'kid bar mo'āhedeh-ye man'-e jāme'-e āzmāyesh hā-ye hasteh-i*. Tehrān: Markaz-e Pažuheš hā-ye Majles-e Šurā-ye Eslāmi. [in Persian]
- Center for Nonproliferation Studies. Inventory of International Nonproliferation Organizations and Regimes (2009). *Final declaration of the first review conference of the NPT 1975*. Retrieved from: <http://cns.miis.edu/inventory/pdfs/NPTRevCon75.pdf>
- Dekker, G.D. (2001). *The Law of Arms Control*. Hague: Martinus Nijhoff published.
- Discover India (14 May 1998). Daily news, Retrieved from: <http://www.fas.org/news/india/1998/05/980514-dlnews.htm>
- Falsafi, H. (1383 [2004 A.D]). *Hoquq-e beyn al-melal-e mo'āhedāt*. Tehrān: Enteshārāt-e Nu. [in Persian]
- Inventory of International Nonproliferation Organizations and Regimes. (2009). *Final Declaration of the First Review Conference of the NPT 1975*. Center for Nonproliferation Studies. Retrieved on 17 June 2015 from: [http://www.nti.org/media/pdfs/NPTRevCon75.pdf?\\_=1316545426](http://www.nti.org/media/pdfs/NPTRevCon75.pdf?_=1316545426)
- Grawin, R.L. (2011). Health of the non-proliferation regime, Retrieved on 2 February 2011 from: [www.iaea.org](http://www.iaea.org).
- Heffernan, L. (1998). The Nuclear Weapons Options: Reflection on the Advisory Procedure of the International Court of Justice. *Stetson Law Review*, Vol. XXVIII. Retrieved on 3 May 2012 from: <http://www.stetson.edu/law/lawreview/media/the-nuclear-weapons-opinions-reflections-on-the-advisory-procedure-of-the-national-court-of-justice.pdf>.

- International atomic energy agency, *information circular*, INFCIRC/140,22 APRIL 1970.
- International Relations and Cooperation. (2006). *Future of the Non-Proliferation Treaty (NPT) and South Africa's Position to convince Powers of the World to Disarm and sign the Treaty*. Republic of South Africa. Published in internal question paper NO. 35 of 24 October 2006. Retrieved on 7 September 2014 from: <http://www.dfa.gov.za/docs/2006/pq/pq313.htm>.
- Johnson, R. (2000a). The 2000 NPT Review Conference: A Delicate, hard-won compromise, Disarmament diplomacy. No.46, Retrieved on 9 April 2013 from: <http://www.acronym.org.uk/dd/dd46/46npt.htm>.
- Johnson, R. (2000b). The non-proliferation treaty: Challenging times. Acronym report 13: 3 (February 2000), Retrieved on 19 September 2013 from: <http://www.acronym.org.uk/acrorep/acro13.htm>.
- Kaul, B. N. (1385 [2006 A.D]). *Ofoq hā-ye novin-e goruh-e 'adam-e ta'ahod*. (Persian translation of Horizons of Non-Alignment). Translated by: Āzarang, 'A. Tehrān: Enteshārāt-e Ruz. [in Persian]
- Kerry, P.K. et al. (2010). *2010 Nonproliferation treaty (NPT), Review Conference, Key issues and Implications*, Congressional research service. CRS report for congress. Retrieved on 3 May 2013 from: <https://www.fas.org/sgp/crs/nuke/R41216.pdf>.
- Mahiga, A.P. (5 May 2005). *Statement by Ambassador Augustine P. Mahiga permanent representative of the United Republic of Tanzania to the United Nations*. At the 2005 Review Conference of the Parties to the Treaty on the Nonproliferation of Nuclear Weapons. New York. Retrieved on 5 May 2005 from: <http://www.un.org/en/conf/npt/2005/statements/npt05tanzania.pdf>.
- Musaviān, H. (1386 [2007 A.D]). *Porotokol-e elhāqi va rāhbord-e Jomhuri-e Eslāmi-e Irān*. Tehrān: Majma'-e Tašxis-e Maslahat-e Nezām, Markaz-e Tahqiqāt-e Esterātežik, Mo'āvenat-e Pažuheš hā-ye Ravābet-e Beyn Al-melal. [in Persian]
- Mustafa, M. Q. (2010). *Global Zero: a World Free of Nuclear Weapons. Reflections*. (3): 1-22 Retrieved on 12 July 2012 from: [http://issi.org.pk/wp-content/uploads/2014/06/1299053955\\_86865616.pdf](http://issi.org.pk/wp-content/uploads/2014/06/1299053955_86865616.pdf)
- Natalegawa, R.M.M.M. (2010). *Statement by Minister of foreign affairs of the republic of Indonesia, The 2010 NPT Review Conference*. Permanent Mission of the Republic of Indonesia to the United Nations. New York. Retrieved on 7 June 2012 from: [http://www.un.org/en/conf/npt/2010/statements/pdf/indonesia\\_en.pdf](http://www.un.org/en/conf/npt/2010/statements/pdf/indonesia_en.pdf).



- Naziri Asl, M. (1377 [1998 A.D]). Hoquq-e beyn al-melal va mašru'iat-e tahdid yā estefādeh az selāh hā-ye hasteh-i dar moxāsemāt-e mosalahāneh. Pāyān nāmeḥ-ye kāršenāsi-e aršad. Tehrān: Dāneškadeh-ye Ravābet-e Beyn Al-melal-e Vezārāt-e Omur-e Xārejeh. [in Persian]
- NPT/CONF.2005/Wp.18. (2005). *2005 Review Conference of the Parties to the Treaty on the Non-proliferation of Nuclear Weapons*, working paper presented by members of the group of Non-Aligned States parties to the Treaty on the Non-Proliferation of Nuclear Weapons. New York, 2-27 May 2005 Retrieved on 7 May 2011 from: [http://cns.miis.edu/nam/documents/Working\\_Paper/5.02.05\\_WP18.pdf](http://cns.miis.edu/nam/documents/Working_Paper/5.02.05_WP18.pdf).
- Ogilive-White, T. and Simpson, J. (2003). *THE NPT and Its 2003 PrepCom Session: A Regime in Need of Intensive Care*. The nonproliferation Review/Spring 2003. Retrieved on 8 April 2012 from: <http://cns.miis.edu/npr/pdfs/101simps.pdf>.
- Plano, J. and Olton, R. (1387 [2008 A.D]). *Farhang-e ravābet-e beyn al-melal*. (Persian translation of The International Relations Dictionary). Translated by: Ra'uf, 'A. Tehrān: Enteshārāt-e Sarā-ye 'Edālat. [in Persian]
- Rauf, T. (2000). *An Unequivocal Success? Implications of the NPT Review Conferences*. Arms Control Association. Retrieved on 21 July 2013 from: [https://www.armscontrol.org/act/2000\\_07-08/raufjulaug](https://www.armscontrol.org/act/2000_07-08/raufjulaug).
- Rydell, R. (2009). Nuclear disarmament and general and complete disarmament. In Krieger, D. (2009). *The Challenges of Abolishing Nuclear Weapons*. 227-242. New Brunswick and London: Transaction Publishers. Retrieved on 6 November 2013 from: <http://www.posse.gatech.edu/sites/posse.gatech.edu/files/Nuclear%20Disarmament%20and%20General%20and%20Complete%20Disarmament.pdf>.
- Scott, D. (2010). *Retrospective on the Nonproliferation Treaty Review Conference*. U.S. Department of State. Bureau of International Security and Nonproliferation. Retrieved on 6 April 2012 from: [http://csis.org/images/stories/poni/100907\\_2\\_Davis.pdf](http://csis.org/images/stories/poni/100907_2_Davis.pdf).
- Šaker, M. E. (1388 [2009 A.D]). *Režim-e 'adam-e gostareš-e hasteh-i: mabādi va tahavolāt*. (Persian translation of The Evolving international regime of nuclear non- proliferation). Translated by: Ebrāhim Gol, 'A. R., & Hātami, M. Tehrān: Enteshārāt-e Xorsandi. [in Persian]
- Stoiber, C. (2003). *The Evolution of NPT Review Conference Final Document 1975-2000*. The Nonproliferation Review Fall-Winter. 126-166. Retrieved on 8 June 2012 from: <http://cns.miis.edu/npr/pdfs/103stoi.pdf>.

- United Nations Office for Disarmament Affairs. (1996). *1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document*. (NPT/CONF.1995/32). New York: 13 November 1996. Retrieved on 9 July 2012 from: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N96/328/12/IMG/N9632812.pdf?OpenElement>.
- United Nations Office for Disarmament Affairs. (2000). *2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons*. New York. Retrieved on 3 May 2000 from: <http://www.un.org/disarmament/WMD/Nuclear/2000-NPT/2000NPT.shtml>.
- Williams, P. (1390 [2011 A.D]). *Darāmadī bar barresi hā-ye amniat*. (Persian translation of Security Studies: An Introduction). Translated by: Tayeb, 'A. R. Tehrān: Entešārāt-e Amirkabir. [in Persian]
- Working Paper Submitted by the Members of the Group Non-aligned State Parties to the Treaty on the Non-proliferation of Nuclear Weapons, (28 April 2010). *NPT/CONF.2010/WP.46*. Retrieved on 7 August 2015 from: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=NPT/CONF.2010/WP.2](http://www.un.org/en/ga/search/view_doc.asp?symbol=NPT/CONF.2010/WP.2).
- NPT/CONF.2015/Wp.18. (2015). *2015 Review Conference of the Parties to the Treaty on the Non-proliferation of Nuclear Weapons*, working paper presented by members of the group of Non-Aligned States parties to the Treaty on the Non-Proliferation of Nuclear Weapons. SIPRI: Stockholm international peace research institute, 22 may 2015.